

# **EXHIBIT A**

## Dalton, Amy

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**From:** Lee, Thomas H. <thomas.lee@hugheshubbard.com>  
**Sent:** Friday, March 17, 2017 9:01 AM  
**To:** Shumsky, Eric A.  
**Cc:** Cooper, Monte; Schwenk, Andrew  
**Subject:** Re: Power v Facebook cert petition

Eric, to clarify, at this point we are just asking for a joint stip to push back the district court proceeding, not recalling CA9's mandate that issued in December. In a nutshell, the extraordinary circumstance is that our client's prior, longstanding counsel in the district court has suffered an urgent personal emergency, and our client has not been able to reach her despite repeated efforts for several weeks. I was retained last week for the cert petition only; the client is in the process of securing new trial counsel in light of the disappearance of prior counsel. The district court may be inclined to wait for the outcome of the petition in any event. Please advise as to how you'd like to proceed. Best, Tom

**Thomas H. Lee** | Of Counsel

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On Mar 16, 2017, at 2:06 PM, Shumsky, Eric A. <[eshumsky@orrick.com](mailto:eshumsky@orrick.com)> wrote:

Tom - Thanks so much for your message. Unfortunately, I'll be tied up during that time. Particularly given your travel, I think that email may be easier; and if there truly are extraordinary circumstances that would recall justifying the mandate, that'd make it easier to pass along to my client your explanation of those circumstances, without something getting lost in translation. Thanks again. Eric.

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**From:** Lee, Thomas H. [<mailto:thomas.lee@hugheshubbard.com>]  
**Sent:** Thursday, March 16, 2017 6:29 AM  
**To:** Shumsky, Eric A. <[eshumsky@orrick.com](mailto:eshumsky@orrick.com)>  
**Cc:** Cooper, Monte <[mcooper@orrick.com](mailto:mcooper@orrick.com)>; Schwenk, Andrew <[andrew.schwenk@hugheshubbard.com](mailto:andrew.schwenk@hugheshubbard.com)>  
**Subject:** Re: Power v Facebook cert petition

Hi Eric, sorry for the delay--I am still overseas. It might be easier for us to talk it over. Do you have time between 12pm-130pm EST today? Tom

**Thomas H. Lee** | Of Counsel

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On Mar 13, 2017, at 8:06 PM, Shumsky, Eric A. <[eshumsky@orrick.com](mailto:eshumsky@orrick.com)> wrote:

Thanks, Tom. What's the basis for recalling the mandate, given that the case is already in active proceedings back before Judge Koh?

Also, for purposes of getting you an answer, can you please let me know when you intend to file?

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**From:** Lee, Thomas H. [<mailto:thomas.lee@hugheshubbard.com>]

**Sent:** Monday, March 13, 2017 12:06 PM

**To:** Shumsky, Eric A. <[eshumsky@orrick.com](mailto:eshumsky@orrick.com)>

**Cc:** Cooper, Monte <[mcooper@orrick.com](mailto:mcooper@orrick.com)>; Schwenk, Andrew <[andrew.schwenk@hugheshubbard.com](mailto:andrew.schwenk@hugheshubbard.com)>

**Subject:** Re: Power v Facebook cert petition

Hi Eric, I meant a recall of mandate. We were retained in the case only recently, months after the mandate had issued. Tom

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On Mar 13, 2017, at 4:40 PM, Shumsky, Eric A. <[eshumsky@orrick.com](mailto:eshumsky@orrick.com)> wrote:

Tom - Thanks for your email. I'm a bit confused. The mandate issued back in December. Can you please explain a bit more?

Thanks. Eric.

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**From:** Lee, Thomas H. [<mailto:thomas.lee@hugheshubbard.com>]

**Sent:** Monday, March 13, 2017 4:21 AM

**To:** Cooper, Monte <[mcooper@orrick.com](mailto:mcooper@orrick.com)>; Shumsky, Eric A. <[eshumsky@orrick.com](mailto:eshumsky@orrick.com)>

**Cc:** Schwenk, Andrew <[andrew.schwenk@hugheshubbard.com](mailto:andrew.schwenk@hugheshubbard.com)>

**Subject:** Power v Facebook cert petition

Hi Eric and Monte,

My colleague Andrew Schwenk and I of Hughes Hubbard & Reed represent Steven Vachani and Power Ventures Inc with respect to the cert petition you received on Saturday. We sent copies to you as the two senior listed attorneys still at Orrick named in the last briefs below.

We intend to file for a stay of mandate in CA9 but would welcome discussion of a joint stip if you're interested.

I am out of the country for the next couple weeks but with access to email; if you'd like to arrange a conference call please email or contact my colleague Andrew and we can set something up.

Yours sincerely,  
Tom Lee

**Thomas H. Lee** | Of Counsel

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